

(e) You may not generate emission credits for averaging, banking, or trading with engines meeting requirements under the provisions of this section.

(f) Keep records to show that you meet the alternate standards, as follows:

(1) If your exempted engines are identical to previously certified engines, keep your most recent application for certification for the certified engine family.

(2) If you previously certified a similar engine family, but have modified the exempted engine in a way that changes it from its previously certified configuration, keep your most recent application for certification for the certified engine family, a description of the relevant changes, and any test data or engineering evaluations that support your conclusions.

(3) If you have not previously certified a similar engine family, keep all the records we specify for the application for certification and any additional records the standard-setting part requires you to keep.

(g) We may require you to send us an annual report of the engines you produce under this section.

[70 FR 40515, July 13, 2005]

Subpart D—Imports

§ 1068.301 Does this subpart apply to me?

(a) This subpart applies to you if you import into the United States engines or equipment subject to our emission standards or equipment containing engines subject to our emission standards.

(b) In general, engines that you import must be covered by a certificate of conformity unless they were built before emission standards started to apply. This subpart describes the limited cases where we allow importation of exempt or excluded engines.

(c) The U.S. Customs Service may prevent you from importing an engine if you do not meet the requirements of this subpart. In addition, U.S. Customs Service regulations may contain other requirements for engines imported into the United States (see 19 CFR Chapter I).

§ 1068.305 How do I get an exemption or exclusion for imported engines?

(a) Complete the appropriate EPA declaration form before importing any nonconforming engine. These forms are available on the Internet at <http://www.epa.gov/OTAQ/imports/> or by phone at 734-214-4100.

(b) If we ask for it, prepare a written request in which you do the following:

(1) Give your name, address, telephone number, and taxpayer identification number.

(2) Give the engine owner's name, address, telephone number, and taxpayer identification number.

(3) Identify the make, model, identification number, and original production year of each engine.

(4) Identify which exemption or exclusion in this subpart allows you to import a nonconforming engine and describe how your engine qualifies.

(5) Tell us where you will keep your engines if you might need to store them until we approve your request.

(6) Authorize us to inspect or test your engines as the Act allows.

(c) We may ask for more information.

(d) You may import the nonconforming engines you identify in your request if you get prior written approval from us. The U.S. Customs Service may require you to show them the approval letter. We may temporarily or permanently approve the exemptions or exclusions, as described in this subpart.

(e) Meet the requirements specified for the appropriate exemption in this part or the standard-setting part, including any labeling requirements that apply.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39269, June 29, 2004; 70 FR 40551, July 13, 2005]

§ 1068.310 What are the exclusions for imported engines?

If you show us that your engines qualify under one of the paragraphs of this section, we will approve your request to import such excluded engines. You must have our approval to import an engine under paragraph (a) of this section. You may, but are not required to request our approval to import the engines under paragraph (b) or (c) of

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this section. The following engines are excluded:

(a) *Engines used solely for competition.* Engines that you demonstrate will be used solely for competition are excluded from the restrictions on imports in §1068.301(b), but only if they are properly labeled. See the standard-setting part for provisions related to this demonstration. Section 1068.101(b)(4) prohibits anyone from using these excluded engines for purposes other than competition.

(b) *Stationary engines.* The definition of nonroad engine in 40 CFR 1068.30 does not include certain engines used in stationary applications. Such engines may be subject to the standards of 40 CFR part 60. Engines that are excluded from the definition of nonroad engine in this part and not required to be certified to standards under 40 CFR part 60 are not subject to the restrictions on imports in §1068.301(b), but only if they are properly labeled. Section 1068.101 restricts the use of stationary engines for non-stationary purposes unless they are certified under 40 CFR Part 60 to the same standards that would apply to nonroad engines for the same model year.

(c) *Other engines.* The standard-setting parts may exclude engines used in certain applications. For example, engines used in aircraft and very small engines used in hobby vehicles are generally excluded. Engines used in underground mining are excluded if they are regulated by the Mine Safety and Health Administration.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39269, June 29, 2004; 71 FR 39185, July 11, 2006]

§ 1068.315 What are the permanent exemptions for imported engines?

We may approve a permanent exemption from the restrictions on imports under §1039.301(b) under the following conditions:

(a) *National security exemption.* You may import an engine under the national security exemption in §1068.225, but only if it is properly labeled.

(b) *Manufacturer-owned engine exemption.* You may import a manufacturer-owned engine, as described in §1068.215.

(c) *Replacement engine exemption.* You may import a nonconforming replacement

engine as described in §1068.240. To use this exemption, you must be a certificate holder for an engine family we regulate under the same part as the replacement engine.

(d) *Extraordinary circumstances exemption.* You may import a nonconforming engine if we grant hardship relief as described in §1068.245.

(e) *Small-volume manufacturer exemption.* You may import a nonconforming engine if we grant hardship relief for a small-volume manufacturer, as described in §1068.250.

(f) *Equipment-manufacturer hardship exemption.* You may import a nonconforming engine if we grant an exemption for the transition to new or revised emission standards, as described in §1068.255.

(g) *Delegated-assembly exemption.* You may import a nonconforming engine for final assembly under the provisions of §1068.260. However, this does not include the staged-assembly provisions of §1068.260(h); see §1068.330 for importing incomplete engines.

(h) [Reserved]

(i) *Identical configuration exemption.* You may import a nonconforming engine if it is identical to certified engines produced by the same manufacturer, subject to the following provisions:

(1) You may import only the following engines under this exemption:

(i) Large nonroad spark-ignition engines (see part 1048 of this chapter).

(ii) Recreational nonroad spark-ignition engines and equipment (see part 1051 of this chapter).

(iii) Land-based nonroad diesel engines (see part 1039 of this chapter).

(2) You must meet all the following criteria:

(i) You have owned the engine for at least six months.

(ii) You agree not to sell, lease, donate, trade, or otherwise transfer ownership of the engine for at least five years, or until the engine is eligible for the exemption in paragraph (g) of this section. During this period, the only acceptable way to dispose of the engine is to destroy or export it.

(iii) You use data or evidence sufficient to show that the engine is in a configuration that is identical to an engine the original manufacturer has